

REMARKS

This amendment is responsive to the Office Action dated September 9, 2004. For the reasons set forth below, this amendment is believed to place the application in proper form for allowance, and Applicant respectfully requests a timely Notice of Allowance in this case.

Rejection under 35 U.S.C. § 102(e):

The invention claimed in the rejected claims was made prior to the earliest possible effective filing date of U.S. Patent Application Publication No. US2001/0048676 to Jimenez et al. ("the *Jimenez* application"). In support of this, Applicant has attached as Exhibit 1 a Declaration under 37 C.F.R. 1.131 of the inventor declaring that the claimed invention was made prior to April 7, 2000, which is the earliest possible effective filing date of the *Jimenez* application. Accordingly, the rejection based on the *Jimenez* application is traversed and should be withdrawn.

Even if the *Jimenez* application were a prior art reference, the *Jimenez* application is directed to a different subject matter. The *Jimenez* application is directed to retrieving audio files from specific Internet Protocol (IP) addresses, such as from attachments to e-mail messages, which are identified in real time by the user. *See Jimenez* application, ¶ 0022. For example, the *Jimenez* application discloses the retrieval of a National Public Radio broadcast saved as an audio file on the National Public Radio's VXML web page, which can be played by the user upon entering the specific IP address of the audio file. *See id.* at ¶ 0035.

It is therefore not surprising that the *Jimenez* application does not disclose several limitations of the claimed invention. For example, the *Jimenez* application does not disclose the following limitations of claim 1:

"a recognition grammar assigned to said instruction set by said user;"

"a database configured for storing on magnetic media-said instruction set and said recognition grammar;"

"said speech command being described in said recognition grammar;"

Similarly the *Jimenez* application does not disclose, for example, the following limitations of claim 2:

“assigning a recognition grammar to said instruction set; “

“storing said instruction set and said recognition grammar on magnetic media in a database;”

“described in said recognition grammar;”

Since the *Jimenez* application does not disclose all limitations of Applicant’s independent claims 1 and 2, the rejection under § 102(e) is improper. *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302 (Fed. Cir. 1995) (Anticipation “requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee”). Accordingly, the rejection based on the *Jimenez* application should be withdrawn.

Objections to the Drawings:

The Examiner has objected to the drawings under 37 C.F.R. § 1.84(p)(5) for failing to include reference numeral 10. Reference numeral 10 was listed in error and the correct reference numeral for the voice enabled device is 306, as stated on page 19, line 48 of the specification. Accordingly, Applicant has amended page 8 of the specification to replace reference numeral 10 with reference numeral 306. Applicant believes this amendment overcomes the Examiner’s objection.

Objections to the Specification:

The Examiner has objected to the specification under MPEP § 608.01 for including embedded computer executable code. Applicant respectfully traverses the objection. The web addresses referred to in the specification, including www.nuance.com and www.cnn.com, are the names of specific web sites and not computer executable codes. These web addresses are on the hard copy of the application; therefore, they cannot have embedded computer executable code. For instance, the specific web address for CNN is to convey the type of information that a user would provide in order for the claimed invention to access CNN’s web site and retrieve certain desired information. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection.

Uninitialed Information Disclosure Statements:

Applicant notes that the Examiner has only returned initialed copies of the Information Disclosure Statements filed on February 7, 2003 and April 12, 2004 and not for those statements filed on May 2, 2001, May 14, 2001, October 18, 2001, December 10, 2001, January 31, 2002 and June 7, 2002. Accordingly, Applicant submits herewith as Exhibits 2-9 copies of those statements not yet initialed, along with copies of the acknowledged postcard receipts, for consideration by the Examiner.

Amendment of Claims 1-2 and Additional Claims:

Applicant amended claims 1 and 2 to better define the claimed invention. For example, Applicant has amended claims 1 and 2 to clarify the instruction set for identifying information to be retrieved from a web site. Applicant has clarified the instruction set to include the uniform resource locator address of the particular web site having the desired content, and the descriptor of the desired content at the particular web site. Additionally, Applicant has amended claims 1 and 2 to clarify that the instruction set is based on user-defined information.


Applicant added claims 3-49 to further protect the invention disclosed in the specification. Claims 3-49 are patentably distinguishable over the *Jimenez* application in that they are directed to an entirely different concept. Claims 3-49 of the present application are directed to retrieving information from a location on a web site, specified by the user. On the other hand, the *Jimenez* application is directed to an audio browser that delivers the audio content located at a particular internet protocol (IP) address, such as from an attachment to an e-mail message. *See Jimenez* application, ¶¶ 0022, 0029. The corresponding audio content is selected by the user in real time as the user keys in the specific IP location. *See id.* at ¶¶ 0022, 0025. By contrast, Applicant's invention is configured to retrieve certain desired information from specific web sites upon the utterance of predefined speech commands by the user. Accordingly, as the new claims are patentably distinct, Applicant requests favorable action with regard to claims 3-49.

CONCLUSION

In view of the above amendments and remarks, Applicant believes claims 1-49 are now in position for allowance and respectfully requests a timely Notice of Allowance in this case.

Should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Kelley Drye & Warren LLP, Deposit Account No. 11-0404, Order No. 015749-0009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Kaspar', is written over a horizontal line.

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